

van Lengerich - Serial No. 09/233,443
Amendment and Response To Restriction Requirement

WO 98/18610 the disclosures of which are incorporated by reference in their entireties into the instant application as specified on page 6, lines 11-16 of the instant application.

Amendments to the examples provide the calculated throughput or rate of extrudate per die area. All of the variables needed for calculating the rates, such as number and diameter of the die openings and the total feed rate are given in each example for which the extrudate rate per die area is added. The rate of extrudate per die area is calculated as the total flow rate per hour of all components divided by the total area of all circular openings. The total flow rate per hour is the sum of the flow rates of the ingredients: 2.5 kg (dry mix), 0.29 kg (vegetable oil), 0.06 kg (water) and 0.82 kg (encapsulant) which is equal to 3.67 kg. The total die area of 40 die openings 0.5 mm diameter each is $40 \times [(0.5/2)^2 \times 3.14] = 7.85 \text{ mm}^2$. Thus, the flow rate per die area for the 3.67 kg/hr total flow rate is equal to $(3.67/7.85) = 0.468 \text{ kg/hr per mm}^2$.

New claims 47-67 have been added. Support for new claims 47-52 can be found, for example, on page 27, line 30 to page 28, line 1 of the originally filed application and in the amendment to the specification set forth above which provides information previously included in the specification by reference as discussed above. Support for new claims 53 and 63 can be found, for example on page 17, lines 9-11 of the originally filed specification. Support for new claims 54, 56, 57, 58, and 64 can be found, for example, on page 13, lines 19-24 of the originally filed specification. Support for new

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claim 55 can be found, for example, on page 10 lines 22-25, page 12 line 19 to page 13 line 7, and page 20 lines 1-6 and 21-22. New claims 59, 60, 62, and 65 are supported, for example, in the paragraph bridging pages 8 and 9 and at page 12 lines 16-18. Exemplary support for new claim 61 is found at page 7 lines 9-25, page 8 line 9 to page 9 line 11, page 10 lines 17-21, and page 16 lines 20-26. New claims 66-67 are supported, for example, at page 9 lines 12-15, page 26 lines 7-20 and page 30 lines 6-22.

No new matter has been introduced by the instant amendment.

RESPONSE TO THE RESTRICTION REQUIREMENT

In response to the Restriction Requirement mailed March 5, 2000, applicant elect Group II, originally presented Claims 21-29, and 46 for further prosecution. In view of the amendment set forth above, claims 21-29, and 46-67 and read on the elected invention Group II. This election is made with traverse.

The Examiner stated that Inventions I and II are related as process of making and product made. The Examiner further states that in the instant case the "process" (it is believed the Examiner meant "product") can be made by a materially different process such as one without a plasticizer.

However, the product claimed in the originally presented independent claims 21, 23, 25, 26-29 and claims dependent on these claims are all claimed in a "product-by-process" form. These claims require the product to be obtained by the process claimed in

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claim 1 and include the process limitations of claim 1, specifically utilization of a plasticizer in the process of making the claimed product. Similarly, products claimed in claim 46 and its newly added dependent claims 61-65 specifically require the products to be obtained by a process with plasticizer. Also, newly added product claims 47-60 and 66-67 all directly or indirectly depend on process claims specifically requiring utilization of a plasticizer. Therefore, The Examiner's statement that the claimed product could be obtained by a process without plasticizer, where all of the claims require the product to be obtained by a process with plasticizer is without merit.

In any event, it is applicants' understanding that if the claims directed to the product will be found allowable, the process claims will be rejoined. See MPEP 821.04.

Accordingly, reconsideration and withdrawal of the restriction requirement is respectfully requested.

The Examiner further required election of a single species for encapsulants. Applicants elect neutraceutical compounds as an elected species, as exemplified, for instance, in illustrative examples 1-4, with the preferred ultimate species being enzymes.

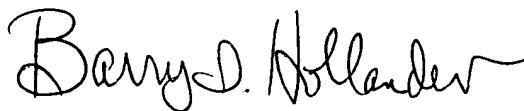
A check in the amount of \$378.00 is enclosed to cover the cost of the additional claims.

A request for a one month extension of time is being filed concurrently herewith.

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If any additional fees are due, please charge our Deposit Account No. 501032.

Respectfully submitted,

A handwritten signature in cursive script that reads "Barry I. Hollander". The signature is fluid and extends to the right.

Barry I. Hollander
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